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Hon^{ble} Mr. Olis

A BILL

TO ESTABLISH

13

An Uniform System of Bankruptcy

IN

THE UNITED STATES.

WASHINGTON :

PRINTED BY DAVIS AND FORCE.

1829.

The following Bill proposes—

- I. To incorporate the Bankrupt System into the judicial system of the country ; to which it properly belongs.

- II. To get rid of the machinery of Commissioners and Assignees and substitute for them,

1. A Register of Bankruptcy, who shall be the common assignee in each district ; reserving, however to creditors, the right to take the Bankrupt's estate into their own hands when they prefer it, and obliging them to take it after a limited time.

2. An inquest in the nature of a special jury, before whom the conduct of the debtor shall be openly investigated.

It then proceeds to make provision—

- I. To secure the creditor against frauds.

- II. To enforce an equal distribution of the Bankrupt's effects.

Bankruptcy is provided for as distinguished into voluntary and involuntary. The rights of a Voluntary Bankrupt in the cases specified, are extended to all persons ; the liability of an Involuntary Bankrupt confined to merchants and traders. But an Involuntary Bankrupt may entitle himself to the rights of the other, by the subsequent fairness of his conduct.

It then concludes with a confirmation of all the discharges under state laws up to the passage of the act : wherever they have been obtained without fraud or concealment.

The system now before congress provides only for the cases of Involuntary Bankruptcy.

Those who are unfavourable to a total discharge of the Bankrupt will have only to alter one line, in order to substitute a Letter of Licence or exemption from suit for a term of years.

A BILL

To Establish an Uniform System of Bankruptcy.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That there shall be appointed by the President of the United States, to every District Court of the United States, a Register of Bankruptcy, who shall enter into bond, with sufficient securities, to be approved of by the District Judge, in the sum of _____ conditioned for the due performance of every duty required of him in that capacity. And all the rights, powers, and interests that shall be legally vested in such Registers of Bankruptcy, respectively, shall be legally transmitted to their successors in office, as one and the same person in law.

SECT. 2. *And be it further enacted,* That there shall be made up in every District of the United States, under the inspection and direction of the Judges of such Districts respectively, a list of respectable citizens, to consist of not less than one hundred, who shall be denominated Jurors of Bankruptcy, and shall be the legal tryers of all questions of fact that shall arise under this or any other law of the United States, touching the rights or liabilities of persons claiming to become, or against whom process is sued out to render them bankrupts; and also touching all claims upon bankrupt estates, when the Court shall adjudge a reference to a Jury necessary.

SECT. 3. *And be it further enacted,* That any person may become a voluntary bankrupt, who without his own privity or procurement is in custody of the law in any civil suit instituted for the recovery of money due on contract; or who, being indebted, can satisfactorily show that his application to become a bankrupt is with a view to the interest of his creditors. For which purpose he shall present his petition in open court, to the District Court of the District within the

limits of which he is held in custody, or within which he has openly and notoriously resided for the last twelve months, setting forth that he is desirous of taking the benefit of this act, and shall file, along with such petition, a schedule of his property, to which shall be subjoined an oath or affirmation, in the following words, "I, A B, do swear (or affirm,) that the foregoing schedule of _____ pages, each page subscribed with my own proper signature is a full and true schedule of all the goods and chattels, rights and credits, and also of all the estate, real and personal, in possession, reversion, remainder, or contingency to which I have any claim or title, legal or equitable. I also swear that I have not concealed nor by any means put out of the reach of my creditors, any sum of money or other article of value whatsoever, or the evidence of property or interest therein. Nor does any person by secret understanding or agreement, hold in trust for my use or that of any one now or hereafter to be connected with me, or to be named by me, or any for me, any debt, property, or article of value whatsoever, or the evidence thereof, nor have I, nor any one for me, by voluntary release or otherwise, or without full payment or value received, discharged, or exonerated any one from a debt due me to the injury of my present creditors. Nor have I, or any one for me, executed any conveyance whatever, for any consideration but that expressed on the face of the deed of conveyance, or executed any conveyance, assignment, or instrument of writing whatever, or made or pretended to make any gift, grant, or transfer whatever, either by parol, delivery, or otherwise, with a view to defeat, delay, or in anywise injure or defraud my creditors or any of them." And if the petitioner be in custody, he shall further swear, "that he is in confinement without his own privity or procurement, but altogether involuntarily on his part." And he shall also, at the same time, file a schedule of his debts, specifying the amounts, dates, and to whom due, and shall subjoin thereto, the following attestation: "I, A B, do swear (or affirm,) that the foregoing is a just and true statement of all my debts, to the best of my knowledge and belief; that I have not made and will not make any covenant acknowledgment of a debt or any demand whatsoever, and that I will, at all times when required, furnish to such person as this court shall direct, full and true information of any legal defence, payment, or discount, which may justly be set up against any demand that may be preferred against me, or against my effects in the hands of the register;" on filing which schedules, and affidavits, the court shall order.

1. That the Register of Bankruptcy take into possession, all the estate and effects of the petitioner, (necessary clothing

and furniture excepted,) and also his books of accounts, deeds, vouchers, and evidences of debt.

2. That he give public notice daily, for a month, in any two gazettes of the State, one of which shall be published in a principal commercial city of the district in which the petition is filed, to the creditors of the petitioner, to appear at the district court for the said district, at the next ensuing term of the said court, to show cause why the prayer of the petitioner should not be granted.

SECT. 2. *And be it further enacted*, That at all convenient times the creditors of the petitioner may have access to his schedule and books of accounts, and any creditor may, at any time, file interrogatories to be administered to the petitioner, touching the application of his effects, the transactions which reduced him to a state of insolvency, the present profits of his business or profession, or future prospects of paying his debts, or the origin or actual state of his debts. To all which interrogatories he shall be bound, on three days service of a copy thereof, to make answer on oath, in open court if required, or otherwise before the Register.

SECT. 3. *And be it further enacted*, That if, at the court at which the creditors have notice to appear, any creditor shall demand in writing, a public investigation of the conduct of the petitioner, there shall be drawn by ballot, and summoned instantly, seven disinterested men of the jurors of bankruptcy to whom the case of the petitioner shall be given in charge, under an oath to try whether he be "an honest bankrupt entitled to the benefits of this act," which question shall be tried with reference to the affidavits prescribed by this act. And the concurrence of five of the seven tryers shall be necessary to a finding in favour of the petitioner.

And on such trial all parties shall have the benefit of compulsory process to procure the attendance of witnesses, and the answers of the petitioner to the interrogatories filed and served upon him, shall be given in evidence. And after having the investigation in open court, the tryers shall be permitted to make such other reasonable inquiries and investigations as they think necessary, either privately or otherwise; and due time for preparing shall be allowed all parties.

And if no opposition shall be made to the granting the prayer of the petitioner, or if the finding of the tryers shall be in favour of the petitioner, he shall be adjudged to be "an honest bankrupt, entitled to the benefits of this act," and from the day of entering such judgment, he shall be for ever released and absolved from all contracts entered into or incurred prior to the day of filing his petition and all judgments obtained thereupon.

SECT. 6. *And be it further enacted*, That from the time of taking into possession the estate and effects of the petitioner, the Register of Bankruptcy shall have full power, and shall be required to collect and receive all moneys due and owing to the petitioner, and rents or interest money accruing, and also to collect, store, and otherwise save and preserve all his personal estate, and to enter into possession of his real estate, and constitute agents with proper power to manage, let, or take due care of the same, for the benefit of all interested.

And immediately upon the entry of the judgment in favour of the petitioner, the whole of the estate, property, interest, and rights of property, real and personal, of every nature and kind whatsoever, whether included in the schedule or not, to which he is then entitled, shall be wholly and absolutely divested of the petitioner, and vested in the Register of Bankruptcy of the district in which such judgment is entered, and in his successor in office; and he and they, and no other, may, in their own proper name sue for and recover the same, or receive and give releases therefor. And if the judgment shall be against the petitioner, the register of bankruptcy shall, notwithstanding, hold, sell, and receive the proceeds of the estate and effects delivered into his possession, and distribute the proceeds thereof among the creditors of the petitioner as in all other cases of bankruptcy.

SECT. 7. *And be it further enacted*, That any person actually engaged in trade and merchandise, (whether by wholesale or retail,) any shipper, factor, broker, banker, underwriter, marine insurer, or dealer in exchange, resident in the United States, or carrying on business by agent, representative, or partner in the United States, and being indebted to the amount of one thousand dollars or any greater sum, may be made a bankrupt for any one of the following causes.

That is to say, if with intent to delay or defraud his creditors, being resident in any State, he shall abscond or conceal himself or otherwise evade the service of the ordinary process of law. 2. Or, if not being resident in a State but carrying on or using therein any one of the trades or callings aforesaid, by agent, copartner, or other representative, such representative shall refuse on demand to accept the service of and enter appearance to the ordinary process of law for, and in, the name of his principal. 3. Or, if in those states in which appearance to process of law is compelled by attachment of property, he shall not within the term required by law, after such attachment served or executed, enter appearance to the suit under which such attachment is issued. 4. Or, if being arrested in legal process and in actual confinement in a civil suit, he shall remain in confinement for three months. 5. Or, if he shall,

according to the understanding of mercantile men have generally stopped payment. 6. Or, if not having effects sufficient to satisfy all his debts, he has made an assignment of his property for the satisfaction of creditors. 7. Or, have suffered or acknowledged a fraudulent judgment. 8. Or, executed a fraudulent conveyance of property, real or personal. 9. Or, in any way given an acknowledgment of a debt not bona fide due by him. 10. Or, be habitually addicted to gaming or drunkenness.

Provided, That nothing in this act shall be construed to subject any planter, farmer, or any mechanic or handicraftsman, to a liability to be made a bankrupt because of any buying and selling ordinarily incident to his trade or calling.

SECT. 8. *And be it further enacted*, That any person in the next preceding section described, having committed one or more of the acts therein specified as acts of Bankruptcy, may be made Bankrupt in the manner following—that is to say: Any creditor to the amount of one thousand dollars, or any two creditors to the amount of fifteen hundred dollars, or any three, or more, to the amount of two thousand dollars, may make oath before the clerk of the district court of the United States, to the amount of his or their debt or debts; and that he, or they, believe, and have reason to believe, that the debtor has committed an act, or acts, of Bankruptcy, therein specifying and describing such act, or acts; and upon his, or their giving bond, with sufficient security, to the said clerk in double the amount of his, or their, debts, conditioned to prove his or their debt just, and maintain his or their charges, or one of them, against the debtor, the clerk shall issue a writ of *capias* to the marshal of the district, commanding him to bring the person of the debtor before the judge of the district court forthwith, to show cause why process of Bankruptcy should not be awarded against him. And if to such writ the marshal return, on oath, that he has demanded the debtor at his usual place of residence, and he is not found within the district, then the clerk shall issue a writ of attachment to the marshal, commanding him to take into possession all the estate and effects, real and personal, and also the books of accounts, deeds, and vouchers of debt, of the debtor, and deliver the same over to the Register of Bankruptcy of the same district.

And if the debtor shall be taken upon the *capias*, or on notice appear before the judge, he shall hear the parties on a motion to award process of bankruptcy against the debtor; and if there be made to appear probable cause for the charge of having committed an act of Bankruptcy, the judge shall order a writ of attachment to issue in like manner as in the case

where the debtor cannot be found. And the debtor shall also be ruled to enter into bond, with reasonable security, to appear at any time, upon notice, before the judge and Register of Bankruptcy aforesaid; and in case of not complying, shall be committed to the custody of the marshal.

SECT. 9. *And be it further enacted*, That if the debtor be dissatisfied with the decision of the district judge in this behalf made, he may demand an inquest or trial before the jurors of Bankruptcy. And it shall be the duty of the judge thereupon to order an inquest accordingly, to be taken either before the Register of Bankruptcy within days after the demand made, if in vacation, or before himself at the next district court, at the option of the debtor.

And if the return of the inquest be in favour of the debtor, then restitution of his effects shall be forthwith made; the suing creditors shall be adjudged to pay costs; and the clerk shall be ordered to assign the creditors' bond to the debtor, that he may thereupon recover, to his own use, compensation in damages by reason of the prosecution of such creditor or creditors so instituted to make him bankrupt.

And if the return of such inquest be against the debtor, then he shall have a right of appeal in usual form of law to the circuit court of the United States for the district in which the inquest is made. And in case he shall acquiesce in the decision of the district judge or the return of the inquest, or the judgment of the circuit court be against him he shall be adjudged an Involuntary Bankrupt, and his estate and effects shall be vested in the Register of Bankruptcy in the same manner as in the case of Voluntary Bankruptcy.

SECT. 10. *And be it further enacted*, That any person adjudged to be an Involuntary Bankrupt may, notwithstanding, become a Voluntary Bankrupt, and be entitled to all the benefits conferred by this act on Voluntary Bankrupts, by petitioning for the same in like manner as is prescribed for Voluntary Bankrupts, with permission to subjoin to the oaths required to be taken by the Voluntary Bankrupt such exceptions as his particular case may require. *Provided*, That he shall afterwards so conduct himself, in all things to the satisfaction of his creditors, as finally to obtain a decision of an inquest of Bankruptcy that he ought to be admitted thereto.

SECT. 11. *And be it further enacted*, That whenever a debtor is about to be discharged under the provisions of this act, the court may, notwithstanding, if it shall be made to appear that his presence will be necessary to the settling of his affairs, lay him under a rule not to leave the district for any term not exceeding one year, and at all times to obey the summons of the Register, to attend him and furnish such information or

evidence as he may have a knowledge of touching his debts, credits or effects. And in disobedience to such rule, he may be committed wherever he may be found, and shall forfeit the privilege of a Voluntary Bankrupt.

SECT. 12. *And be it further enacted*, That it shall be the duty of the marshal when he shall take into possession the estate and effects of a Bankrupt, to take a complete and minute inventory and appraisement thereof, and return the same to the clerk of the court, there to be recorded. And the creditors of the Bankrupt shall be permitted to nominate a committee to attend at the taking of such inventory and appraisement. And whenever the marshal shall be ordered by the court to deliver over the Bankrupt's estate to the Register of Bankruptcy, the receipt of the latter shall be endorsed upon such inventory.

SECT. 13. *And be it further enacted*, That in all cases where the marshal or register shall be ordered to take into custody the estate of a Bankrupt, the necessary furniture and wearing apparel of himself and family, and the implements of his trade and husbandry shall be exempted. And the court may order a reasonable allowance for the subsistence of the debtor and his family, to be raised and paid from his effects until he shall receive his discharge and three months after. And at any time before the debtor is adjudged Bankrupt, the court may, at the request of the debtor, and at any time after, on petition of a creditor, or suggestion of the register, order a sale of the Bankrupt's estate, or of any part thereof; on which sale a credit may be allowed, when necessary, to make the article bring a fair price.

SECT. 14. *And be it further enacted*, That immediately after the estate and effects of a Bankrupt become vested in the register, he shall advertise for all the creditors of a Bankrupt to appear before him, on a day to be assigned for that purpose, and prove their debts, which day shall be at least four months from the day of such advertisement. And all debts shall be proved before him by such evidence as would be sufficient in a court of law or equity; but the Bankrupt may be received as a witness in such cases, and his books shall be taken as *prima facie* evidence either for or against the demands that may be made upon his estate. And he may be required at any time, either by the register or his creditors, to answer such interrogatories touching such demand as they propound to him, and may be compelled to attend for that purpose. And all creditors of the Bankrupt, resident within the district, shall be required to prove their debts in that time; and if resident within the United States, and not in the district, they shall be allowed six months; and if without the United States twelve months.

Provided, That upon satisfactory cause shown, a longer time may be allowed by the register; but the distribution of the Bankrupt's effects shall not be delayed on account of such extension of time for proving any debt or debts. And *Provided*, That no person shall be precluded from establishing his demand, within the time so prescribed, in a court of justice in due form of law by action against the Bankrupt, giving notice of such fact to the register. And it shall be lawful for the register to appear and defend such suit, and retain counsel for that purpose at the expense of the Bankrupt's estate, if he should have cause to doubt the justness of the cause of action as a claim on the Bankrupt's estate. *Provided*, That if upon such notice, the register offer to admit the demand in whole or in part, and the creditor recover no more than the sum proposed to be admitted, the plaintiff shall be adjudged to pay costs.

And in like manner, and at the same time, the Register of Bankruptcy shall give public notice to the creditors of the bankrupt to appear and receive their dividends of the bankrupt's estate, and also to take and receive the residue of the same into their own hands, at the expiration of one year from the date of such advertisement. And at the day so assigned, the books of the Register touching such bankrupt estate shall be laid before the creditors, and they shall have such reasonable time for examining the same as they may require, and shall be heard before the district court on all objections thereto, or to the fairness of his conduct otherwise in relation to the bankrupt's estate. And the court shall make such order thereon as may be necessary and proper; and either party, being dissatisfied with the order of the district court, may appeal therefrom in due form of law to the circuit court. And when the dividend shall be duly ascertained and paid, the Register shall make an assignment of all the residue of the bankrupt's effects to such person as the creditors, or a majority in value of such of them as appear, shall nominate under their hands, in trust for the creditors who shall have proved their debts, with due reservation in favour of such as have not proved their debts and have been allowed further time to prove them. And the creditors of any bankrupt, to the amount of two-thirds in value or amount of his debts, having proved their debts before the Register, may petition the district court for an order to deliver up to them the effects of the bankrupt vested in the Register. And upon its being made to appear to the satisfaction of the court, that the petitioners are creditors to the prescribed amount, the court shall order the estate of the bankrupt to be delivered over to such person or persons as the said creditors shall nominate as their agent, reserving

only or requiring them to pay and satisfy to the said Register the sum which by law is reserved thereupon for expenses or otherwise. And the Register thereupon shall deliver over such effects in pursuance of such order (taking the receipt of the agent therefor,) in trust for the use in average and proportion of such creditors as have duly proved and shall duly prove their debts against such bankrupt. And thenceforth such agent shall be authorized in the name of the Register or his successor, to do all such acts touching such bankrupt's estate, as the register himself lawfully might do; but the said Register shall in nowise incur any legal liability by reason of such use of his name.

SECT. 15. *And be it further enacted*, That it shall be the duty of every Register of Bankruptcy to keep a book for each bankrupt's estate, in which shall be entered a minute of all the estate and effects which shall come into his hands, of all the debts admitted against the estate and on what evidence, a cash account of expenses, and a minute generally of his transactions relative to such bankrupt estate; which book shall be always examinable under order of the district court or on payment of the fee for a search. And it shall be his duty within twenty-four hours after receiving any sum of money of one hundred dollars and upwards to make a deposit thereof in some bank under order of the district judge, and the bank book acknowledging such deposits along with his books of account shall be submitted to the court at every session, and when the dividends are to be made or money drawn out for unavoidable expenses, it shall be done as is required by law in the case of clerks and marshals.

SECT. 16. *And be it further enacted*, That any creditor of the bankrupt may appeal to the district court in due form of law from any decision of a register admitting any debt as valid against the bankrupt's estate. *Provided*, That such debt amount to two hundred dollars, and such appeal be instituted within six months after such decision is made.

SECT. 17. *And be it further enacted*, That if at any time it shall appear that any person against whom process of bankruptcy is awarded, has made any conveyance, which in law is deemed fraudulent or covenous, such deed shall be held and adjudged to inure to the benefit of his creditors, and to vest in the Register of Bankruptcy the property so conveyed fully and absolutely according to the estate intended to be so conveyed, for the use of the creditors who shall duly prove their debts against such bankrupt.

And if any person against whom process of bankruptcy shall be sued out, shall have made any assignment of choses in action or other property with a view to give preference to any

creditor whose debt was incurred prior to such assignment, to the prejudice of other creditors such assignment shall be held to inure to the benefit of his creditors generally, and shall vest such choses in action or other property in the Register of Bankruptcy for the use of the creditors who shall duly prove their debts against such bankrupt. *Provided*, That nothing herein shall be construed to deprive the United States of the preference secured by law in favour of debts due the United States.

And if any person knowing himself unable to pay his debts, shall purchase goods or produce of any one on credit, and deliver the same in payment of a debt previously incurred, such person shall never be admitted to the benefits of this act, and the goods so delivered in payment, shall be held to vest in the Register of Bankruptcy for the common benefit of the creditors of such person. *Provided*, That nothing herein contained shall be construed to divest any interest in the said goods, acquired by bona fide purchases for a valuable consideration without notice of the fraud.

SECT. 18. *And be it further enacted*, That all publications of notice required by this act shall be made in conformity to the provisions of the third section hereof, respecting such publications.

SECT. 19. *And be it further enacted*, That whenever a bankrupt shall be duly adjudged entitled to the benefits of this act, he shall receive from the clerk of the court in which he is so adjudged, a certificate thereof under seal, and such certificate when produced to any judge or court of a State or of the United States shall entitle him to an immediate discharge from any suit instituted against him upon any cause of action founded in contract which existed at the date of filing his petition to be admitted to the benefit thereof.

SECT. 20. *And be it further enacted*, That if any of the debts due by the bankrupt at the time of filing his petition be not payable until a future day, or any contract in which he is bound be contingent, the debt not yet due shall notwithstanding be proved and receive a dividend allowing such deduction therefrom, in case it bear no interest, as would be equivalent to the interest for the unexpired time of credit, and such contingent debt if entered into for a valuable consideration, and not dependent on the personal acts of the debtor, may also be proved, and equitable compensation made therefor to be assessed by the Register.

SECT. 21. *And be it further enacted*, That the Register of Bankruptcy shall be considered as an officer of the district court to which he is attached, and subject to the order of such court or the circuit court for such district, in like manner as the

clerk or marshal. And the said courts may make all such necessary rules and orders as may be deemed requisite to carry into effect this act according to the true interest and meaning thereof.

SECT. 22. *And be it further enacted*, That the discharge under this act of any person being a copartner in trade or jointly bound with any other in any contract, shall in no wise affect the legal liability of any other than the person so discharged, and in all judicial proceedings, for the purposes of form, such discharged bankrupt may be regarded, as to such copartners in trade, or persons jointly bound, as civilly dead.

SECT. 23. *And be it further enacted*, That it shall be lawful for the Register of Bankruptcy to retain from all moneys received by him per centum, and per centum on the appraised value of effects delivered over to creditors. From which sum he shall defray all incidental expenses, and the balance shall be his compensation, in full for all services performed. And the courts shall have power to tax costs in favour of the marshal, clerk, and attorney, employed, according to the services performed, to be paid from the per centum allowance so reserved by the Register.

SECT. 24. *And be it further enacted*, That all the provisions of this act shall be extended to female as well as male creditors and bankrupts, notwithstanding the masculine pronoun only be used in the sections making such provision.

SECT. 25. *And be it further enacted*, That whenever the Register shall have good cause to suspect that any property of any kind, or any voucher of debt of the bankrupt, are in possession of any other person in secret trust or confidence, or that any person is indebted to the bankrupt or to any other person for the secret use of the bankrupt, he shall have power to issue a summons under his own hand requiring such person to appear before him to answer interrogatories on oath touching such concealment. And if the person so summoned do not appear upon reasonable notice given, or appearing shall refuse to answer such interrogatories, or shall answer them falsely, the Register may represent the matter to the judge of the District Court, and the judge upon being satisfied of the facts, shall issue his warrant to arrest and confine such person until he shall answer such interrogatories.

SECT. 26. *And be it further enacted*, That if any person shall fraudulently or collusively claim or detain any debt, or any property real or personal of the bankrupt, or be knowingly aiding and abetting thereunto, he shall forfeit double the value thereof, to be recovered by the Register in due form of law in any court having competent jurisdiction.

SECT. 27. *And be it further enacted,* That it shall be lawful for the marshal, in execution of an attachment issued against the effects of one charged as a bankrupt, to break open in the day time the doors of the person so charged, and to take his trunks, chests, or desks into his custody and possession, which trunks, chests, and desks shall be sealed by him until broken open under order of the Register. And it shall be lawful for the district judge, upon cause shown, to issue his warrant to the marshal to break open the doors of any other person who shall conceal, or contrary to law detain the property of the bankrupt.

SECT. 28. *And be it further enacted,* That if any person shall voluntarily discover to the Register any debt or property of the bankrupt which has been fraudulently conveyed away or concealed he shall be entitled to per centum on the amount or value of whatever shall be recovered in pursuance of such information.

SECT. 29. *And be it further enacted,* That no person shall be admitted to the privileges of a Voluntary Bankrupt, who at any time after his knowledge of his insolvency, shall have preferred one or more creditors to others by payment, assignment, or transfer, in satisfaction or otherwise.

SECT. 30. *And be it further enacted,* That if any creditor, after the issuing of process of bankruptcy against his debtor, shall in any way receive from his debtor satisfaction beyond the due proportion which his debt bears to the sum of the debts of the Bankrupt, he shall be liable to refund to the Register so much as he has received above such due proportion. And if any creditor who has sued out process of bankruptcy against his debtor shall afterwards in any way compromise with his debtor, with a view to discontinuing the prosecution, or to the suppression of evidence therein, or abandoning the suit in any way, he shall forfeit whatever he may receive on such compromise, and moreover lose his debt. *Provided,* That nothing in this or the next preceding section shall be construed to extend to bona fide cash transactions, or the receipt or payment of notes, acceptances, and other debts, as they fall due in the ordinary course of trade.

SECT. 31. *And be it further enacted,* That in the distribution of the Bankrupt's effects or the payment of dividends, all just creditors, however their demands may have originated, shall share in the same proportion. *Provided,* That the debts due the United States shall not be deprived of any priority secured to them by law, nor shall any one be deprived of the benefit of an existing lien. But in all cases in which a creditor shall have been bona fide secured by a lien or an assignment not

comprised within the provisions of the seventeenth section of this act, he shall be bound, on tender of his debt or his due ratio of the balance thereof, after deducting the value of the property on which he has a lien, to release the same, or convey the property on which he hath such lien to the Register. And, *Provided*, That in all cases of mutual transactions or dealings, one demand may be set off against the other, and in like manner may a set off be admitted in favour of a debtor of the Bankrupt, provided it be founded in contract, and acquired without a knowledge of the Bankrupt's insolvency, and for valuable consideration, and not with intent to give one creditor preference to another.

SECT. 32. *And be it further enacted*, That all penalties or forfeitures given by this act shall, when recovered, be passed to the credit of the Bankrupt estates respectively, and shall be sued for in the name of the Register.

SECT. 33. *And be it further enacted*, That nothing herein contained shall be construed to impair the right of the states to legislate and adjudicate on subjects of Insolvency or Bankruptcy, so far as no provision is made for such cases by this act, except only so far as relates to persons declared involuntary Bankrupts in pursuance of this act.

SECT. 34. *And be further enacted*, That if any surplus of the Bankrupt's effects shall remain, after satisfying his debts, the same shall be paid to him or his legal representatives.

SECT. 35. *And be it further enacted*, That the courts of the United States shall have exclusive cognizance of all suits to be instituted by the register for the recovery of any Bankrupt's debts or effects, and also of all suits that may be instituted against the register or marshal for any act done in pursuance of or under authority professedly derived from the provisions of this act.

SECT. 36. *And be it further enacted*, That all discharges heretofore granted to any Bankrupts, in pursuance of state laws, shall be held valid to all the purposes declared by such laws. *Provided* such discharges have been obtained bona fide, and without fraud or concealment of property or effects.

SECT. 37. *And be it further enacted*, That in all cases in which an oath is required or permitted to be administered by this act, any person swearing falsely shall be adjudged guilty of wilful perjury, and being thereof duly convicted, shall be punished in like manner as persons guilty of perjury are made punishable under the laws of the United States.







